

## Attachment C

### Steps and Procedures to Follow for Appeals and/or Mediation of a Final Technical Determination or Program Decision

Rule Sections	Procedure		
§614.7	NRCS issues a preliminary technical determination for a conservation program.		
	a	The preliminary technical determinations becomes a final technical determination if no action by the participant 30 days from the date that the preliminary technical determination is received as to the following options:	
		1	Reconsideration and field visit
		2	Mediation as provided at § 614.11
	b	NRCS conducts a field visit for reconsideration within a reasonable period from the date requested by the participant, not to exceed 15 working days.	
		1	Conduct the field visit to gather additional information and discuss the facts relating to the preliminary technical determination. Participant may provide additional documentation to support his claim.
		2	Within 15 working days of the field visit, the District Conservationist will reconsider the preliminary technical determination.
		i	If the determination is still adverse to the participant, the reconsidered technical determination must be sent to the STC for further reconsideration.
		ii	If the determination is no longer adverse to the participant, the DC will issue a final technical determination on which notice of appeal rights must be given in accordance with §614.8 & §614.10
	c	The STC will review the reconsidered technical determination and issue a final technical determination on which notice of appeal rights must be given in accordance with §614.8 & §614.10	
§614.8	a	The preliminary technical determination becomes final and appealable:	
		1	30 days from receipt by the participant.
		2	30 days after the beginning of mediation when a mutual agreement has not been reached.
		3	Upon receipt of the determination issued by the STC under §614.7(c).
	b	Participant may appeal the final technical determination to:	
		1	The FSA County Committee where the determination was made in accordance with 7 CFR §780.11; or
		2	The National Appeals Division (NAD) in accordance with 7 CFR 11.

## Steps and Procedures to Follow for Appeals and/or Mediation of a Final Technical Determination or Program Decision

Rule Sections	Procedure	
§614.9	NRCS issues a program decision, which is a final decision upon receipt by the participant.	
	a	The participant must be afforded the following options and notification of appeal rights:
		<ol style="list-style-type: none"> <li>1 Informal hearing before: <ul style="list-style-type: none"> <li>• The NRCS STC; or</li> <li>• The FSA County Committee in accordance with §614.10 (if the technical determination or program decision has been issued for a <i>Title XII</i> conservation program).</li> </ul> </li> <li>2 Mediation as provided at § 614.11; or</li> <li>3 NAD pursuant to 7 CFR 11.</li> </ol>
	b	Participant must file appeal request with appropriate STC in no more than 30 days from the date that he/she receives notification.
	c	STC may accept late filed requests if circumstances warrant.
	d	STC must hold an appeal hearing no later than 30 days from the date that the appeal request was received; The STC hearing decision must be issued no more than 30 days from the close of the hearing.
§614.10	a	Participant must file request for FSA COC appeal hearing no later than 30 days from the date he/she receives notification.
	b	When FSA COC requests review of determination and/or decision by the STC (as required by statute and regulation at 7 CFR 780.11(b)), the STC will, if needed:
		<ol style="list-style-type: none"> <li>1 Designate official to gather additional information.</li> <li>2 Obtain additional oral and documentary evidence from any party with personal or expert knowledge about the facts under review.</li> <li>3 Conduct field visit to review and obtain additional information concerning the technical determination.</li> <li>4 Provide the FSA COC with a written determination or decision in the form required by §614.6(b)(1).</li> </ol>
7 CFR 780.11	a	Participants <u>may</u> appeal NRCS determinations/decisions for Title XII conservation programs to the FSA COC.
	b	If the COC hears the appeal and finds merit in the participant's issues, the COC must request review of the decision/determination by the STC.
	c	If the COC doesn't refer a participant's appeal upon finding merit, they must provide appeal rights to the FSA State Committee.
	d	Any COC or State Committee decision must incorporate STC review (as required in paragraph b) which then must form the basis of the decision. FSA is responsible for providing appeal rights to NAD.